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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,949	01/24/2002	Nick Ramirez	2207/13511	3612

7590

10/12/2005

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EXAMINER
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BONURA, TIMOTHY M

ART UNIT	PAPER NUMBER
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2114

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/056,949

Applicant(s)

RAMIREZ, NICK

Examiner

Tim Bonura

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14-25 is/are pending in the application.
- 4a) Of the above claim(s) 18-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 21-25 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Gross, et al, U.S.

Patent Number 6,553,515.

3. Regarding claim 14:

- a. Regarding the limitation of “a media gateway for converting between POTS voice traffic and IP voice traffic, the media gateway including a processor having a system management mode that executes code to monitor a state of the media gateway,” Gross discloses a system with a gateway to convert analog and packetized data (Lines 10-15 of Column 4). Gross also discloses that the gateway can be coupled to a diagnostic supervisor that can monitor the state of the data and system. (Lines 50-63 of Column 1).

- b. Regarding the limitation of “a signaling gateway for converting between POTS signaling traffic and IP signaling traffic, the signaling gateway including a processor having a system management mode that executes code to monitor a state of the signaling gateway,” Gross discloses a system with a gateway with the ability to allow a user to place a call by dialing numbers and then converting them across the network until the final destination. (Lines 15-32 of Column 14). Gross also discloses that the gateway can be coupled to a diagnostic supervisor that can monitor the state of the data and system. (Lines 50-63 of Column 1).

- c. Regarding the limitation of “a gateway controller coupled to the signaling gateway for receiving signaling messages there from and determining IP routing addresses corresponding to telephone numbers, the gateway controller including a processor having a system management

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mode that executes code to monitor a state of the gateway controller," Gross discloses a system with a gateway with the ability to allow a user to place a call by dialing numbers and then converting them across the network until the final destination. (Lines 15-32 of Column 14). Gross also discloses that the gateway can be coupled to a diagnostic supervisor that can monitor the state of the data and system. (Lines 50-63 of Column 1).

d. Regarding the limitation of "a high availability system controller coupled to all of the media gateway, the signaling gateway and the gateway controller, the high availability system controller having policy and procedure code configured to execute when triggered by at least one of the media gateway, the signaling gateway and the gateway controller in response to at least one event," Gross discloses a system with a diagnostic supervisor that is coupled to the communications system. The DS is capable of monitoring for faults and executing real-time responses to diagnostic information. (Lines 50-58 of Column 1 and Lines 33-36 of Column 2).

4. Regarding claim 15, Gross discloses a system that can gather data about a communications system fault via a diagnostic supervisor. (Lines 50-58 of Column 1). Gross also discloses a Resource Reallocation Controller that can disable parts of a system is an error is determined to have occurs. (Lines 1-10 of Column 17).

5. Regarding claim 16, Gross discloses a system in which a rerouting control can reroute traffic over a PTOS system. (Lines 50-53 of Column 16).

6. Regarding claim 17, Gross discloses a system with a real-time response manager to reroute Internet connections if a connection has an error. (Lines 43-60 of Column 16).

#### ***Election/Restrictions***

7. Newly submitted claims 21-25 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

- I. Claims 21-25, drawn to a computer system and method for providing high availability comprising a system management mode functioning independently of an operating system, classified in class 714, subclass 1.

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- II. Claims 14-17, drawn to a telecommunication system comprising plural gateways, a gateway controller, and a system controller for responding to a malfunction event, classified in class 714, subclass 7.

8. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 21-25 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Response to Arguments***

9. Applicant's arguments filed on 09/23/2005 have been fully considered but they are not persuasive.

10. Regarding claim 14:

e. Regarding the argue of "Gross describes a DS that only monitors connections... Gross fails to describe... a signaling gateway and a gateway controller having a system management mode that executes code to monitor a state of the media gateway, the signaling gateway and the gateway controller respectively." (Page 6 of the response). The examiner contends that Gross does disclose a system that discloses monitoring the state of the media gateway. In fact the stated lines of the applicant support this argument. (Lines 50-57 of Column 1). Gross discloses a system with TE (terminal endpoints) that have the ability to "generate Diagnostic Messages (DMs) based on diagnostic information of error statistic, voice statistics, facsimile statistics, video statistics, data statistics, or the like concerning IP network connections in which the TEs participate." (Lines 50-57 of Column 1). The examiner contends that when Gross discloses "error statistics... or the like", Gross implies the state of not only the connections but also the TE, which the connections are operational though. In fact, the connections would not exist if not for the TE, and thereby the connections would have no diagnosis but the TE diagnosis. In other words, the diagnosis of the TE is the same as the diagnosis of the connections because the

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connections would not operate correctly without the TE and vice versa. (Lines 50-60 of Column 16).

11. Regarding claim 21-25, please refer to Restriction above.

***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

13. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tim Bonura**.

- The examiner can normally be reached on **Mon-Fri: 8:30-5:00**.
- The examiner can be reached at: **571-272-3654**.

15. If attempts to reach the examiner by telephone are unsuccessful, please contact the examiner's supervisor, **Scott Baderman**.

- The supervisor can be reached on **571-272-3644**.

16. The fax phone numbers for the organization where this application or proceeding is assigned are:

- **703-872-9306 for all patent related correspondence by FAX.**

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

18. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **receptionist** whose telephone number is: **571-272-2100**.

19. Responses should be mailed to:

- o **Commissioner of Patents and Trademarks**

**P.O. Box 1450**

**Alexandria, VA 22313-1450**

Tim Bonura  
Examiner  
Art Unit 2114

tmb  
October 5, 2005



**NADEEM IQBAL  
PRIMARY EXAMINER**